

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:21-cv-00553-MR

WALTER TIMOTHY GAUSE,)
Plaintiff,)
vs.)
CURTIS DIGGERS, et al.,)
Defendants.)

ORDER

THIS MATTER is before the Court on Plaintiff's letters to the Clerk of Court, which the Court construes as motions for return of his filing fee. [Docs. 16, 17].

Pro se Plaintiff Walter Timothy Gause (“Plaintiff”) is a prisoner of the State of North Carolina incarcerated at Scotland Correctional Institution in Laurinburg, North Carolina. On October 15, 2021, Plaintiff filed a complaint in this matter pursuant to 43 U.S.C. § 1983 against eight Defendants. [Doc. 1]. On November 16, 2021, the Clerk entered an Order waiving the initial partial filing fee and directing monthly payments from Plaintiff’s prisoner trust account. [Doc. 8]. On November 18, 2021, the Court vacated the Clerk’s Order directing payment and dismissed Plaintiff’s Complaint without prejudice pursuant to 28 U.S.C. § 1915(g). [Doc. 9]. The Court also directed

the Clerk's Financial Department to reimburse Plaintiff for any funds that had been collected for the payment of his filing fee. [Id. at 4].

Plaintiff now writes the Clerk of Court requesting return of a filing fee that he states was improperly debited from his prisoner trust account on February 14, 2022 for this case. [Docs. 16, 17]. The Court has consulted with the Clerk's Financial Department regarding Plaintiff's claim. The Financial Department has confirmed that it received \$350.00 in payment of Plaintiff's filing fee, which was receipted on March 3, 2022. The Financial Department's inadvertent acceptance of this fee occurred due to the delay between the Court's November 2021 Order and the North Carolina Department of Public Safety errant payment of the fee from Plaintiff's trust account in February 2022. The Court will grant Plaintiff's motion and the Clerk will promptly return Plaintiff's filing fee in the amount of \$350.00.

IT IS THEREFORE ORDERED that Plaintiff's motions for return of filing fee [Docs. 16, 17] are **GRANTED**.

The Clerk is respectfully instructed to transmit a copy of this Order to the Clerk's Financial Department.

Signed: March 9, 2022

IT IS SO ORDERED.



Martin Reidinger
Chief United States District Judge

